



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,853	08/06/2003	David Cook	LET-109	7008

28970 7590 12/27/2005

PILLSBURY WINTHROP SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

EXAMINER

ABEL JALIL, NEVEEN

ART UNIT PAPER NUMBER

2165

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/634,853	Applicant(s) COOK ET AL.	
	Examiner Neveen Abel-Jalil	Art Unit 2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3-October-2005 has been entered.
2. The amendment filed on 3-October-2005 has been received and entered. Claim 21 has been cancelled. Therefore, claims 1-20, and 22 are now pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-16, and 18-20, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Hughes et al. (U.S. Pub. No. 2002/0013826 A1).

As to claim 1, Hughes et al. discloses a method for providing media samples comprising:

receiving a request including at least one media keyword (See Figure 6C, 100A, shows search icon on the browser window, also see page 2, paragraph 0022);

identifying one or more media samples that correspond with the at least one media keyword (See Figure 6C); and

in response to a selection to preview an identified media sample, providing the identified media sample to enable playback on a media device (See Figure 6C, 128, shows sample while displaying search results), and

downloading the identified media sample through a branded player to enable playback of the identified media sample when the identified media sample is associated with a branded player (See page 4, paragraph 0037),

wherein the request further includes a client-ID that identifies the branded player that should be launched to playback the media sample, and wherein the branded player enables a consumer to listen to the playback of the identified media sample and purchase corresponding media, while reviewing and accessing other search results and related information (See Figure 8D, and Figure 8E, also see page 4, paragraph 0036, and see page 4, paragraph 0040).

As to claim 2, Hughes et al. discloses wherein the one or more media samples are identified in conjunction with search results from performing a search based upon the media keyword on a search engine (See Figure 6C, 100A, shows search icon on the browser window).

As to claim 3, Hughes et al. discloses wherein the one or more media samples are identified as links on a search results page of a search engine (See Figure 6C, 124, shows sample

Art Unit: 2165

of displayed search results).

As to claim 4, Hughes et al. discloses wherein a consumer is enabled to access other search results during playback of the identified media sample (See Figure 6C, 128, shows sample while displaying search results).

As to claim 5, Hughes et al. discloses further comprising including a call-to-action statement during playback of the identified media sample (See page 4, paragraphs 0040-0041).

As to claim 6, Hughes et al. discloses wherein the media device plays the identified media sample on the branded player that is associated with a retailer (See Figure 8D, and Figure 8E).

As to claim 7, Hughes et al. discloses wherein the branded player provides a link to a consumer to purchase media that corresponds to the identified media sample (See page 4, paragraph 0036).

As to claim 8, Hughes et al. discloses method for providing media samples comprising: receiving a search request from a consumer device, wherein the search request includes at least one media keyword and a client ID (See page 2, paragraph 0022, also see page 4, paragraph 0038, and Figure 8E, shows which media player format is present on client machine thereby keeping track of such inventory by client ID); and

automatically providing a media sample that corresponds with the at least one media keyword to the consumer device (See Figure 6C, 128, shows sample while displaying search results),

wherein the media sample is automatically played on a media player associated with the consumer device, and wherein a branded player associated with the client ID and the media sample is automatically provided so that the media layer plays back the media sample on the branded player (See Figure 8D, and Figure 8E, also see page 8, paragraph 0065).

As to claim 9, Hughes et al. discloses wherein at least one search result is identified to the consumer device, and the consumer device is enabled to access the search result during playback of the media sample (See page 8, paragraph 0065).

As to claim 10, Hughes et al. discloses wherein the media sample is identified in conjunction with search results from performing a search based upon the at least one media keyword on a search engine (See Figure 6C, 128, shows sample while displaying search results, also see page 2, paragraph 0022, and see page 4, paragraph 0038).

As to claim 11, Hughes et al. discloses wherein the media sample is identified as a link on a search results page of a search engine (See page 4, paragraph 0035).

As to claim 12, Hughes et al. discloses wherein a consumer is enabled to access other search results during playback of the media sample (See Figure 6B, and Figure 6C).

As to claim 13, Hughes et al. discloses comprising including a call-to-action statement during playback of the media sample (See page 4, paragraph 0037, wherein “call-to-action” reads on “activating an icon”).

As to claim 14, Hughes et al. discloses wherein the branded player is associated with a retailer (See page 6, paragraph 0054).

As to claim 15, Hughes et al. discloses wherein the branded player provides a link to a consumer to purchase media that corresponds to the media sample (See page 4, paragraph 0037).

As to claims 16, and 20, Hughes et al. discloses a system for providing media samples comprising:

a plurality of internet-connected consumer devices for transmitting search requests online (See Figure 6C, 100A, shows search icon on the browser window, also see page 2, paragraph 0022, also see page 2, paragraph 0018), the consumer devices including media players;

a search engine for receiving consumer search requests from consumer devices, wherein the search engine identifies one or more media samples when a search request is received from a consumer, the search request includes one or more media keywords (See Figure 6C, 100A, shows search icon on the browser window, also see page 2, paragraph 0022); and

a media framework for retrieving an identified media sample selected by a consumer and for providing the media sample to the consumer device for playback on a media player associated with the consumer device (See Figure 6C, 100A, shows search icon on the browser window, also see page 2, paragraph 0022, also see page 2, paragraphs 0019-0022),

wherein the consumer search request includes a client ID that identifies the branded player that should be launched to playback the media sample, and wherein according to the client ID, the media framework further downloads a branded player that is associated with the identified media sample so that the media player associated with the consumer device playbacks the identified media sample on the branded player (See Figure 8D, and Figure 8E, also see page 4, paragraph 0036, and see page 8, paragraph 0067).

As to claim 18, Hughes et al. discloses wherein the media framework enables playback on the media player associated with the consumer device over a branded player (See page 6, paragraph 0054).

As to claim 19, Hughes et al. discloses wherein the branded media player is associated with a retailer (See page 6, paragraph 0054).

As to claim 22, Hughes et al. discloses wherein the identified media sample includes a call to action message See page 4, paragraph 0037, wherein “call-to-action” reads on “activating an icon”).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes et al. (U.S. Pub. No. 2002/0013826 A1) in view of Hurtado et al. (U.S. Patent No. 6,611,812 B2).

As to claim 17, Hughes et al. teaches wherein the search engine provides a link to the consumer device to access the identified media sample from the media framework (See page 4, paragraph 0035).

Hughes et al. does not teach wherein the media framework maintains reports of identity of the search engine that referred the consumer to the media framework, for billing the search engine for provision of the identified media sample to the consumer.

Hurtado et al. teaches wherein the media framework maintains reports of identity of the search engine that referred the consumer to the media framework, for billing the search engine for provision of the identified media sample to the consumer (See Hurtado et al. column 45, lines 18-63, also see Hurtado et al. column 25, lines 36-50).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to having the media maintaining reports of identity of the search engine that referred the consumer to the media framework, for billing the search engine for provision of the identified media sample to the consumer since it is known in the art that media content usage

royalties can be collected from different content distributor by a clearinghouse for security and market research needs (i.e. third party entity) (See Hurtado et al. column 2, lines 1-17).

Response to Arguments

7. Applicant's arguments with respect to claims 1-20, and 22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hartman et al. (U.S. Patent No. 5,960,411) teaches one-click purchase of media items identified by client ID.

Leonhard et al. (U.S. Pub. 2002/0052933 A1) teaches launching of media player associated with selected link from search results.

Melet et al. (U.S. Patent No. 6,917,961 B2) teaches sending media samples to a user's computer and automatically launch a media player on the client.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074.

The examiner can normally be reached on 8:30AM-5:30PM EST.

Art Unit: 2165

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil
December 21, 2005

Apur Motiz
Apur Motiz
Primary Examiner
Technology Center 2102